

TITLE 57
PUBLIC FUNDS IN GENERAL

CHAPTER 7
INVESTMENT OF PERMANENT ENDOWMENT AND EARNINGS RESERVE FUNDS

57-715. PERMANENT ENDOWMENT FUNDS DECLARED TO BE TRUST FUNDS. Permanent endowment funds of the state of Idaho are hereby declared to be trust funds of the highest and most sacred order and shall be controlled, managed and invested by the investment board and the investment manager(s) or custodian(s) in accordance with the highest standard, as directed by law and according to policies established by the state board of land commissioners, and as hereinafter provided.

[57-715, added 1969, ch. 244, sec. 2, p. 764; am. 1972, ch. 69, sec. 1, p. 140; am. 1998, ch. 256, sec. 33, p. 838.]

57-716. INVESTMENT OF PROCEEDS OF THE SALES OF PUBLIC LANDS. The proceeds of the sales of endowment lands of the state, if not deposited into the land bank fund established in section [58-133](#), Idaho Code, and used to purchase other lands, shall be deposited into the appropriate permanent endowment funds and must be invested for and on account of the specific purposes for which the lands were granted.

[57-716, added 1969, ch. 244, sec. 3, p. 764; am. 1998, ch. 256, sec. 34, p. 838.]

57-717. DEFINITIONS. The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) "Board" and "investment board" mean the endowment fund investment board herein established.

(2) "Endowment fund" means the financial proceeds of lands granted to or acquired by the state by or from the general government and managed by the state board of land commissioners pursuant to section 8, article IX, of the constitution of the state of Idaho.

(3) "Income" means dividends and interest, which shall be distributable income within the meaning of this chapter.

[57-717, added 1969, ch. 244, sec. 4, p. 764; am. 1972, ch. 69, sec. 2, p. 140; am. 1974, ch. 22, sec. 51, p. 592; am. 2007, ch. 263, sec. 1, p. 779.]

57-718. ESTABLISHMENT OF INVESTMENT BOARD -- MEMBERS -- QUALIFICATIONS. There is hereby established in the state board of land commissioners an endowment fund investment board, hereinafter referred to as the "investment board." This investment board shall consist of members hereinafter designated who shall be appointed by the governor subject to senate confirmation. The members of the investment board subject to appointment shall be: one (1) citizen with a minimum of ten (10) years' broad experience in the field of public educational administration, one (1) member of the Idaho senate, one (1) member of the Idaho house of representatives, and six (6) public

members from the citizenry at large who are knowledgeable and experienced in financial matters and the placement or management of investment assets.

[57-718, added 1969, ch. 244, sec. 5, p. 764; am. 1974, ch. 22, sec. 52, p. 592; am. 1975, ch. 244, sec. 1, p. 655; am. 1998, ch. 256, sec. 35, p. 839.]

57-719. BOARD -- APPOINTMENT OF MEMBERS -- TERM -- REMOVAL -- VACANCIES -- ORGANIZATION -- QUORUM -- MEETINGS -- COMPENSATION. The members of the board appointed by the governor shall serve for terms of four (4) years, provided that for the first term the governor shall appoint three (3) members who shall serve for a term of two (2) years, two (2) members who shall serve for a term of three (3) years, and two (2) members who shall serve for a term of four (4) years. Members of the board shall serve until their successors have been selected and qualified.

A member of the board appointed by the governor shall not hold an office, position, or employment in a political party, with the exception of those members from the house of representatives and the senate. An appointed member may be removed from the board for cause by a two-thirds (2/3) vote of the full board.

A vacancy in the appointive membership of the board during a term thereof shall be filled by appointment by the governor for the unexpired term.

There shall be a chairman of the board elected by a majority of the members of the board. A majority of the members of the board shall constitute a quorum for the transaction of business.

The meetings of the board shall be held at least quarterly and at other times upon the call of the chairman or a majority of the board. The board members appointed hereunder shall be compensated as provided by section [59-509](#)(p), Idaho Code.

[57-719, added 1969, ch. 244, sec. 6, p. 764; am. 1975, ch. 244, sec. 2, p. 655; am. 1980, ch. 247, sec. 77, p. 645; am. 1992, ch. 109, sec. 1, p. 338; am. 2000, ch. 65, sec. 1, p. 146; am. 2009, ch. 19, sec. 1, p. 45; am. 2017, ch. 90, sec. 1, p. 237; am. 2018, ch. 65, sec. 1, p. 156.]

57-720. INVESTMENT AUTHORITY -- INVESTMENT POLICIES -- ANNUAL AUDIT. (1) The investment board or its investment manager(s) may, and are hereby authorized to, invest the permanent endowment funds and the earnings reserve funds of the state of Idaho and other moneys as required by law. The investment board may, with the approval of the state board of land commissioners, invest other funds that are exempt from section [67-1210](#), Idaho Code, provided however, that the costs of investment of such funds may be deducted by the investment board from investment proceeds.

(2) The funds invested by the investment board may be combined or pooled for investment.

(3) Earnings reserve funds shall be accounted for separately from permanent endowment funds.

(4) Prior to the annual calculation of gains and losses pursuant to section [57-724](#), Idaho Code, the investment board shall allocate the end of fiscal year market value between the permanent endowment funds and the earnings reserve funds. This allocation shall be made based upon the proportion that the market value of the permanent endowment funds and the market value of

the earnings reserve funds bear to the combined market value of both sets of funds, at the end of the fiscal year.

(5) The investment board shall formulate investment policies governing the investment of permanent endowment funds and earnings reserve funds and the investment of other funds accepted for investment by the investment board pursuant to subsection (1) of this section. The policies shall pertain to the types, kinds or nature of investment of any of the funds, and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange transactions, provided such policies shall not conflict with nor be in derogation of any Idaho constitutional provision or of the provisions of this chapter.

(6) Annually, the investment board shall cause an audit to be conducted of the investment of permanent endowment funds and earnings reserve funds, such audit to be conducted by a recognized certified public accountant. The certified public accountant conducting the audit shall not be an employee of the state. The expense of such audit shall be paid from earnings reserve funds.

(7) The state treasurer shall invest the income funds of the respective endowment funds and distribute the moneys in the income funds according to legislative appropriation.

[57-720, added 1969, ch. 244, sec. 7, p. 764; am. 1972, ch. 69, sec. 3, p. 140; am. 1975, ch. 197, sec. 1, p. 549; am. 1998, ch. 256, sec. 36, p. 839; am. 2001, ch. 254, sec. 1, p. 919; am. 2004, ch. 96, sec. 1, p. 341; am. 2004, ch. 132, sec. 1, p. 451; am. 2007, ch. 263, sec. 2, p. 780.]

57-721. MANAGEMENT BY MANAGER OF INVESTMENTS -- APPOINTMENT OF CUSTODIAN. (1) The investment board shall contract with or employ a manager of investments to manage the permanent endowment funds, the earnings reserve funds, and such other funds as the investment board is authorized to invest. The manager of investments who is employed or contracted with shall, subject to the direction of the investment board, exert control over the funds as though the manager of investments were the owner thereof.

(2) The investment board may select and contract with a minimum of one (1) bank or trust company to act as custodian of fund assets and provide safekeeping thereof.

[57-721, added 1969, ch. 244, sec. 8, p. 764; am. 1972, ch. 69, sec. 4, p. 140; am. 1997, ch. 162, sec. 1, p. 467; am. 1998, ch. 256, sec. 37, p. 839; am. 2000, ch. 65, sec. 2, p. 146; am. 2007, ch. 263, sec. 3, p. 781.]

57-723. INVESTMENT POWERS OF THE BOARD -- APPLICATION OF IDAHO UNIFORM PRUDENT INVESTOR ACT. Any other sections of the Code notwithstanding, the investment board or its investment manager(s) or custodian(s) shall have the care and control of all investment instruments representing mortgages, bonds, warrants, investments and other securities in which the permanent endowment funds and earnings reserve funds of the state shall be invested.

The investment board and its investment manager(s) shall be governed by the Idaho uniform prudent investor act ([chapter 5, title 68](#), Idaho Code), and shall invest and manage the assets of the respective trusts in accordance with that act and the Idaho constitution.

[57-723, added 1969, ch. 244, sec. 10, p. 764; am. 1972, ch. 69, sec. 6, p. 140; am. 1998, ch. 256, sec. 39, p. 840.]

57-723A. DEPOSIT AND DISTRIBUTION OF EARNINGS RESERVE FUNDS -- INCOME FUNDS -- ADMINISTRATIVE COSTS. (1) As directed by the state board of land commissioners, the investment board shall distribute the earnings from the investments or securities in accordance with this act and the laws governing the respective endowment funds. Earnings from the investment of permanent endowment funds related to state land grants shall be deposited into each endowment's respective earnings reserve fund for distribution as provided in this section.

(2) At least annually, the state board of land commissioners shall distribute moneys constituting earnings reserve funds, in excess of the amount necessary to pay administrative costs, to the income funds of the respective endowments, to each endowment's respective permanent endowment fund or maintained as a free fund balance in the earnings reserve funds, in amounts to be determined by the state board of land commissioners.

(3) Moneys in the earnings reserve funds shall be available for appropriation by the legislature to pay for administrative costs incurred managing the assets of the endowments including, but not limited to, real property and monetary assets.

[57-723A, added 1998, ch. 256, sec. 40, p. 840.]

57-724. DETERMINATION OF GAINS AND LOSSES. (1) Gains. Gains to permanent endowment funds shall be determined by the investment board when the current market value of the permanent endowment fund as of the end of the fiscal year exceeds the gain benchmark market value of the permanent endowment fund. Gains for each permanent endowment fund shall be calculated as of June 30 of each fiscal year by subtracting the gain benchmark market value as of June 30 of such year, after all adjustments set out in this section, from the current market value of the permanent endowment fund as of the same June 30 date. The gain benchmark market value shall begin with the market value of the permanent endowment fund calculated as it existed on June 30, 2000, and shall be adjusted cumulatively as of June 30 of each fiscal year thereafter for inflation during the preceding year based on the unadjusted consumer price index for all urban consumers as published by the United States department of labor, hereafter referred to in this section as "CPI-U," and further adjusted for certain deposits of funds into the permanent endowment fund during the preceding year, such adjustments to be calculated as follows:

(a) Inflation Adjustment. The gain benchmark market value shall be adjusted for inflation as of June 30 of each fiscal year by multiplying the gain benchmark market value as of the commencement of business on July 1 of the preceding calendar year by the sum of one (1) plus the percentage change in the average CPI-U for the fiscal year then ending. The percentage change in the average CPI-U shall be a fraction, the numerator of which is the average CPI-U for the fiscal year then ending less the average CPI-U for the preceding fiscal year, and the denominator of which is the average CPI-U for the preceding fiscal year. The average CPI-U for each fiscal year shall be calculated by dividing the sum of the monthly CPI-U index figures for such fiscal year, July through June, by twelve (12).

(b) Deposit of Funds. After adjustment for inflation, the gain benchmark market value shall be further adjusted by adding the amount of funds deposited into the permanent endowment fund from and including July 1 of the preceding calendar year through and including the June 30 date of adjustment, from any of the following sources:

- (i) Land sales proceeds not deposited into the land bank fund under section [58-133](#)(2), Idaho Code;
- (ii) Funds transferred from the land bank fund after expiration of the time frame under section [58-133](#)(3), Idaho Code;
- (iii) Mineral royalty payments; or
- (iv) Such other deposits into the permanent endowment fund as are required by law or otherwise permitted to be added to the permanent endowment fund except for the following:
 1. Deposits to make up for losses to the permanent endowment fund;
 2. Deposits of earnings reserves if the state board of land commissioners directs that such deposit not be added to the gain benchmark market value; or
 3. Other deposits, including bequests, to the permanent endowment fund if the depositor or grantor thereof directs that the deposit not be added to the gain benchmark market value.

(c) Gain Benchmark Floor. Notwithstanding any other provision of this section, in no event shall the gain benchmark market value fall below the permanent corpus balance. For purposes of this subsection, the permanent corpus balance shall be calculated by adding to the permanent endowment fund balance as of June 30, 2000, all deposits to the permanent endowment fund up to and including the June 30 date of adjustment, other than deposits resulting from the investment activities of the permanent endowment fund and deposits made to make up losses to the permanent endowment fund.

(2) Losses. Losses to permanent endowment funds shall be determined by the investment board when the market value of the permanent endowment fund as of the end of the fiscal year is less than the loss benchmark market value of the permanent endowment fund. The investment board shall calculate any annual loss as well as the cumulative loss for each permanent endowment fund as of June 30 of the fiscal year.

(a) Cumulative Loss. The cumulative loss for each permanent endowment fund shall be equal to the difference between the loss benchmark market value as of June 30 of the fiscal year, after all adjustments to the loss benchmark market value as set out below in this subsection (2), and the current market value of the permanent endowment fund as of the same June 30 date.

(b) Annual Loss. The annual loss for a fiscal year shall be equal to the increase, if any, of the cumulative loss as of June 30 of such fiscal year, compared to the cumulative loss as of June 30 of the preceding fiscal year.

(c) Loss Benchmark. The loss benchmark market value for each permanent endowment fund shall begin with the market value of the permanent endowment fund calculated as it existed on June 30, 2000, and shall be adjusted cumulatively as of June 30 of each fiscal year thereafter by adding the amount of funds deposited into the permanent endowment fund from and including July 1 of the preceding calendar year through

and including the June 30 date of adjustment, from any of the following sources:

- (i) Land sales proceeds not deposited into the land bank fund under section [58-133](#)(2), Idaho Code;
- (ii) Funds transferred from the land bank fund after expiration of the time frame under section [58-133](#)(3), Idaho Code;
- (iii) Mineral royalty payments; or
- (iv) Such other deposits into the permanent endowment fund as are required by law or otherwise permitted to be added to the permanent endowment fund except for the following:
 - 1. Deposits to make up for losses to the permanent endowment fund; and
 - 2. Deposits of earnings reserves.

(d) Loss Recovery. Cumulative losses in permanent endowment funds other than the public school permanent endowment fund may be made up from earnings reserve fund moneys that the state board of land commissioners determines will not be needed for administrative costs or scheduled distributions to each endowment's respective income fund. Cumulative losses in the public school permanent endowment fund shall be made up as follows:

- (i) The state board of land commissioners may transfer any funds in the public school earnings reserve fund that it determines will not be needed for administrative costs or scheduled distributions to the public school income fund in the following fiscal year to the public school permanent endowment fund, to make up for all or part of any then existing cumulative losses in the public school permanent endowment fund.
- (ii) If a cumulative loss exists in the public school permanent endowment fund as of the end of a fiscal year, and there has also been a cumulative loss at the end of each of the preceding nine (9) fiscal years, for a total of ten (10) consecutive fiscal years ending with a cumulative loss, then, to the extent the then existing cumulative loss is not made up from transfers of earnings reserves under subsection (2)(d)(i) of this section, the legislature shall, by legislative transfer or appropriation authorized during one (1) or both of the next succeeding two (2) regular sessions of the legislature, authorize a deposit to the public school permanent endowment fund in an amount equal to the lesser of:
 - 1. The current cumulative loss; or
 - 2. An amount not less than the annual loss determined in the first year of the preceding ten (10) consecutive fiscal years, provided however, the legislature may offset the amount of this annual loss by any deposits of earnings reserves made by the land board into the public school permanent endowment fund after the end of the fiscal year for which such annual loss was calculated, but only to the extent any such deposit of earnings reserves has not been used previously to offset the amount of a prior legislative deposit under this subparagraph 2.
- (iii) The deposit of any transfer or appropriation authorized by the legislature under subsection (2)(d)(ii) of this section shall take place after the end of the fiscal year in which the deposit was authorized by the legislature, and as soon as is practicable

once the investment board has calculated the cumulative loss in the public school permanent endowment fund as of the end of the fiscal year; provided however, in the event the cumulative loss as of the end of such fiscal year is less than the amount of the authorized deposit, the deposit shall be reduced to an amount equal to the cumulative loss, and the balance of the authorized deposit shall be returned to the source of the deposit.

[57-724 added 1998, ch. 256, sec. 42, p. 841; am. 2001, ch. 254, sec. 2, p. 920; am. 2004, ch. 132, sec. 2, p. 451; am. 2006, ch. 43, sec. 1, p. 130.]

57-724A. EARNINGS DEFINED. "Earnings" shall mean all revenues generated from the management of endowment lands and their related endowment funds including, but not limited to, timber sale proceeds, lease fees, interest, dividends, and gains as defined in section [57-724](#), Idaho Code; provided however, for the permanent fund of each endowment, on and after July 1 of the calendar year following the first calendar year in which gains, as calculated under the provisions of section [57-724](#), Idaho Code, have been achieved by the permanent fund of such endowment fund, dividends and interest shall be incorporated into the calculation of gains as defined in section [57-724](#), Idaho Code, and shall not be a separate item of earnings for such permanent fund. "Earnings" does not include mineral royalties or land sale proceeds.

[57-724A, added 1998, ch. 256, sec. 43, p. 841; am. 2001, ch. 254, sec. 3, p. 920; am. 2004, ch. 132, sec. 3, p. 453; am. 2006, ch. 44, sec. 2, p. 134.]

57-725. REPORTS TO THE STATE BOARD OF LAND COMMISSIONERS. The investment board shall make reports to the state board of land commissioners as directed by the state board of land commissioners.

[57-725, added 1969, ch. 244, sec. 12, p. 764; am. 1972, ch. 69, sec. 8, p. 140; am. 1975, ch. 197, sec. 4, p. 549; am. 1997, ch. 162, sec. 3, p. 468; am. 1998, ch. 256, sec. 44, p. 841.]

57-727. MANAGER OF INVESTMENTS -- STAFF -- LEGAL ADVISORS. (1) With the approval of two-thirds (2/3) of the members of the board, a manager of investments and other portfolio managers may be employed or contracted with who shall perform such managerial activities and functions as the board may direct. The manager of investments and portfolio managers shall serve at the pleasure of the board in nonclassified positions, if such persons are employees. The manager of investments and portfolio managers may either be employed by the board or serve pursuant to contract. The salary or compensation of the manager of investments and portfolio managers shall be set by the board, subject to approval of the governor, and be paid from appropriations made therefor. The manager of investments and portfolio managers shall be bonded in an amount established by the board if these persons are employees. If these functions are performed pursuant to contract, the contract shall contain a clause to provide for bonding of the contractor's personnel.

(2) The board may authorize the employment of whatever staff it deems necessary for the administration of the board's business. The manager of investments may hire portfolio managers and other necessary staff who shall

hold their respective positions subject to the rules of the administrator of the division of human resources promulgated pursuant to [chapter 52, title 67](#), Idaho Code. The salaries of all staff members shall be paid from appropriations made therefor.

(3) The director of the department of finance shall have access to any and all books and records maintained by the manager of investments and his staff as the board may deem necessary.

(4) The board shall be furnished adequate and qualified legal advisors by the attorney general's office.

(5) All current expenses, capital outlay, and travel expenses shall be paid from appropriations made therefor.

(6) The board shall, upon request of the agency involved, furnish advice to the treasurer, the manager of the state insurance fund, and the public employee retirement board, and the board may, upon request of the agency, invest funds of the requesting agency.

[57-727, as added by 1971, ch. 262, sec. 1, p. 1060; am. 1974, ch. 22, sec. 54, p. 592; am. 1977, ch. 206, sec. 1, p. 570; am. 1977, ch. 229, sec. 2, p. 683; am. 1986, ch. 68, sec. 1, p. 193; am. 1997, ch. 162, sec. 4, p. 469; am. 1999, ch. 370, sec. 24, p. 1009; am. 2000, ch. 65, sec. 3, p. 146.]

57-728. CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS. (1) The endowment fund investment board shall administer a school district bond credit enhancement program in accordance with this section and in conjunction with [chapter 53, title 33](#), Idaho Code. This program applies to voter approved bonds issued by school districts. The program is intended to benefit school districts by authorizing the board to purchase notes issued by the state of Idaho for the purpose of making debt service payments under the Idaho school bond guaranty program established in [chapter 53, title 33](#), Idaho Code.

(2) The board shall promulgate rules to implement the program. Rules may include the imposition of guaranty and administrative fees upon school districts participating in the program. Rules shall include:

(a) The application materials school districts must provide to the board; and

(b) The application procedures, submission deadlines, and the time periods for review and approval or denial of an application.

(3) A school district that seeks credit enhancement under this program shall first apply to the state treasurer to participate in the Idaho school bond guaranty program established in [chapter 53, title 33](#), Idaho Code. If approved to participate in the Idaho school bond guaranty program, a school district may apply for credit enhancement, as provided in section [33-5310](#), Idaho Code. The board shall approve or deny applications as set forth in rule but not longer than twenty (20) days following the submission of a complete application to the board. Nothing contained herein shall prohibit a school district from reapplying following a rejected application.

(4) Upon approval of a school district's application to participate in the credit enhancement program, the following shall be in effect in the event moneys from the sales tax account or from the provisions of section [33-5309](#), Idaho Code, are insufficient to pay a debt service payment under the Idaho school bond guaranty program:

(a) The board may purchase on behalf of the public school endowment fund, or from other funds administered by the board, notes from

the state issued by the state treasurer, in accordance with section [33-5308](#), Idaho Code, under such terms as are negotiated between the board and the state treasurer; or

(b) Upon the request of the state treasurer pursuant to section [33-5308](#), Idaho Code, the board shall purchase on behalf of the public school endowment fund notes issued by the state treasurer, the proceeds of which shall be sufficient to pay the debt service payments as they become due.

(5) Notes purchased by the board pursuant to subsection (4) (b) of this section shall be subject to the following terms and conditions:

(a) The notes shall bear interest at a rate equal to the annual rate of one (1) year treasury bills, as published by the federal reserve board as of the date of the request of the state treasurer, plus four hundred (400) basis points, plus, for the first six (6) months of the term of the note, an amount, as determined by the board, up to a maximum of fifty (50) basis points, to cover all additional administrative and transaction costs related to the purchase of the notes;

(b) The notes will have a maximum term of one (1) year, and may be renewed at the request of the state treasurer;

(c) The notes, including principal and interest, shall be repaid from the school district's next payments pursuant to section [33-5307](#), Idaho Code, as collected by the state treasurer;

(d) The state may make additional payments on the note;

(e) The board may require the state treasurer to compel the school district to modify its fiscal practices and its general operations if the board determines that there is a substantial likelihood that the school district will not be able to make future payments required under this section.

(6) The provisions of this section shall not be deemed to interfere with the state treasurer's ability in [chapter 53, title 33](#), Idaho Code, to obtain repayment of a delinquent obligation.

(7) For purposes of administering the provisions of this section, the board shall make available the sum of three hundred million dollars (\$300,000,000) from the public school endowment fund, for purposes of purchasing notes as authorized by this section. Nothing in this section shall require the board to hold at any time in excess of three hundred million dollars (\$300,000,000) in notes issued pursuant to the credit enhancement program. The principal amount of bonds guaranteed by the credit enhancement program shall not be greater than four (4) times the amount made available by the board from the public school endowment fund for the purpose of purchasing notes.

(8) The aggregate principal amount of school district bonds outstanding that may be guaranteed by the credit enhancement program shall not exceed forty million dollars (\$40,000,000) per school district. In the event school districts consolidate, the maximum credit enhancement of the bonds of the newly consolidated school district shall be the sum of the maximum limit of each school district participating in the consolidation. The state treasurer shall monitor the principal amounts of each school district participating in the credit enhancement program and provide such information to the board.

(9) Any bond originally guaranteed under this chapter shall no longer be considered guaranteed from and after the date on which that bond no longer

has the benefit of the Idaho school bond guaranty program established in [chapter 53, title 33](#), Idaho Code.

[57-728, added 1999, ch. 328, sec. 3, p. 850; am. 2002, ch. 147, sec. 1, p. 424; am. 2003, ch. 269, sec. 1, p. 719; am. 2007, ch. 89, sec. 1, p. 243; am. 2009, ch. 185, sec. 6, p. 605; am. 2016, ch. 136, sec. 1, p. 400.]